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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/640,088	08/13/2003	John Williams	WILLIAMS, J #2	7622
40992	7590	12/01/2005	EXAMINER	
THOMAS R. LAMPE BIELEN, LAMPE & THOEMING 1390 WILLOW PASS ROAD, SUITE 1020 CONCORD, CA 94520			THOMPSON, HUGH B	
			ART UNIT	PAPER NUMBER
			3634	

DATE MAILED: 12/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/640,088	Applicant(s) WILLIAMS, JOHN	
	Examiner Hugh B. Thompson II	Art Unit 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4-8,10 and 12-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13-15 is/are allowed.
- 6) ☒ Claim(s) 1,4-8,10, 12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 4-8, 10, and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by Carty #6,766,881. Carty, as best seen in Figures 2, 3, 5, 6, discloses a ladder system comprised of step ladder 10, a flexible tool holder having a top panel 20, front panel 50, top ladder step securing straps 28, 29, which allow for the only connection to the ladder, side panels 32, 36, side panel open top pouches 33, 37, front panel open top pouches 51, and holder top panel portion 39.

Allowable Subject Matter

Claims 13, 14, and 15 are allowed. The primary reason for allowance of claim 13 is the inclusion of the top panel having a reinforcement strip to which the securing strap is attached. For claim 14, it is the inclusion of the side panels being directly attached to the front panel. For claim 15, it is the inclusion of the strap of the top panel having a hook that is attached to a rung of the ladder so as to secure the top panel thereto. The prior art of record fails to teach or suggest the claimed features absent the applicant's own disclosure.

Response to Arguments

Applicant's arguments filed in the Amendment of 9-6-05 have been fully considered but they are not persuasive. Applicant's attention is drawn to pages 11-13 of the remarks. The applicant has incorporated the subject matter of previously rejected claims 2 and 3 into claim 1. Figures 2, 3, and 5 of the Carty reference, clearly discloses ***a holder front panel not directly attached to the ladder***, as the applicant argues. Carty also discloses holder side panels attached to the holder front panel by way of the top panel 20 (figure2). Carty further discloses open topped pockets for the front panel (any of the figures). The applicant appears to rely upon an argument based upon how the holder behaves when the ladder is tilted or when the holder it self is moved. It is improper for the applicant to rely upon external forces applied to the ladder and holder so as to impart patentably distinct features. Note that the applicant fails to define a minimum or maximum amount of "tilt" needed for the instant invention to behave in the manner claimed. To that end, one of ordinary skill can readily ascertain that "tilting" of any object is within an angular range zero to 360 degrees, i.e., rotated. As such, does the applicant maintain that were the instant invention tilted (rotated) 180 degrees from any initial position other than true vertical (90 degrees), that no tools or objects would not become disengaged from the holder side panels? It is suggested that the applicant recite structural differences between its holder and the Carty reference, differences indicated as allowable subject matter in the prior office action.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hugh B. Thompson II whose telephone number is (571) 272-6837. The examiner can normally be reached on Monday thru Friday 9 am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3634

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Hugh B. Thompson II
Primary Examiner
Art Unit 3634

November 26, 2005